

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Esli Gadiel MOLINA-Vargas

Defendant.

Magistrate Case No.

'08 MJ 06 20

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326;
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about, **November 29, 2007**, within the Southern District of California, defendant, **Esli Gadiel MOLINA-Vargas**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 3rd DAY OF **March 2008**.



UNITED STATES MAGISTRATE JUDGE

CATHY ANN BENCIVENGO
U.S. MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

I, United States Immigration and Customs Enforcement (ICE) Deportation Officer, John Mleczko, declare under penalty of perjury the following to be true and correct:

As part of assigned duties of the Detention and Removal Office, Deportation Officers review various sources in order to check on aliens that have been previously removed from the United States. This is done in order to determine if subjects have returned to the United States, in violation of Title 8, United States Code, Section 1326.

On November 29, 2007, the defendant identified as Esli Gadiel MOLINA-Vargas was arrested by the United States Border Patrol for illegal entry into the United States. This arrest took place approximately three miles east of the Otay Mesa, CA Port of Entry, and approximately one mile north of the United States/Mexico International Boundary. Record checks revealed that defendant was a parole violator, and therefore a Parole Hold was issued and he was booked into San Diego County Jail for PC 3056 VIOLATION OF PAROLE. On November 27, 2007, an Agent with the United States Border Patrol determined the defendant to be a citizen of Mexico and placed a Form I-247 "Immigration Detainer" pending his release from State custody. On Friday, February 29, 2008, at approximately 11:00 a.m. the defendant was referred to United States Immigration and Customs Enforcement custody. Deportation Officer John Mleczko reviewed various sources of information and conducted official record checks in regards to the defendant confirming him to be a citizen of Mexico having been previously removed from the United States.

A thorough review of official immigration computer database record checks and information contained in the Alien Registration file revealed that the defendant was ordered removed from the United States by an Immigration Judge on or about July 7, 2005 and physically removed to Mexico on or about July 8, 2005 via the San Ysidro Port of Entry. Record checks also revealed that the defendant was issued a Reinstatement of Removal order on or about August 30, 2007 and was physically removed to Mexico on that date via the San Ysidro Port of Entry. Record checks also revealed that the defendant was issued a Reinstatement of Removal order on or about October 31, 2007 and was physically removed to Mexico on that date via the Nogales Port of Entry. Record checks further indicate that the defendant has not applied to the Attorney General of the United States or the Secretary of the Department of Homeland Security for permission to re-enter the United States.

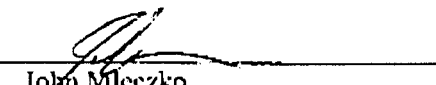
The Automated Biometric Fingerprint Identification System "IDENT" and Automated Fingerprint identification System "IAFIS" were utilized and compared the defendant's fingerprints to those contained in these databases. The results confirmed the defendant's identity as Esli Gadiel MOLINA-Vargas, a citizen and national of Mexico. A photograph and a set of fingerprints contained within the official Alien Registration File were also reviewed and compared to the defendant, further confirming his identity.

The defendant was admonished as to his rights per "MIRANDA" in the English language at approximately 1:01 p.m. by Deportation Officer Gregory M. Harrison as witnessed by Deportation Officer John Mlczko. The defendant acknowledged his rights per "MIRANDA" and elected to answer questions without counsel present.

The defendant stated that he is a citizen of Mexico by virtue of birth, was deported or removed from the United States to Mexico on three occasions and had not obtained a waiver in order to re-enter the United States. The defendant acknowledged that he unlawfully entered the United States on November 29, 2007, through the hills near Otay Mesa, CA. The defendant acknowledged that he has no legal right to enter or reside in the United States.

Based upon the foregoing information, there is probable cause to believe that Esli Gadiel MOLINA-Vargas has illegally re-entered the United States after Deportation, in violation of Title 8 of the United States Code 1326, Deported Alien Found in the United States.

EXECUTED ON THIS 29th DAY OF February 2008 AT 6:00pm


John Mlczko
Deportation Officer

On the basis of the facts presented in the Probable Cause Statement consisting of (2) pages, I find probable cause to believe that the defendant named therein committed the offense on November 27, 2007 in violation of Title 8, United States Code, Section 1326.


U.S. MAGISTRATE JUDGE

2/29/08 @ 8:15pm
/DATE / TIME

CATHY ANN BENCIVENGO
U.S. MAGISTRATE JUDGE